



U.S. Department of Justice

Environment and Natural Resources Division

JCC:LMG
90-11-3-608A

Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044-7611

Tel: (202) 514-5293
Fax: (202) 616-6584

August 22, 1994

VIA FAX THEN U.S. MAIL

The Honorable James L. Foreman
Chief Judge
United States District Court for the
Southern District of Illinois
750 East Missouri Avenue
East St. Louis, Illinois 62202

Re: United States v. NL Industries, Inc., et al.
Civ. Action No: 91-578-JLF

Dear Judge Foreman:

This letter is a follow up to the United States' August 11, 1994, letter to this Court and the parties concerning the status of U.S. EPA's remediation activities at the NL Site. Subsequent to its receipt of the motions for a temporary restraining order ("TRO") and a preliminary injunction filed by Granite City, U.S. EPA has decided to limit its activities at the NL site for the next month as set forth below.

U.S. EPA will not commence any new excavation activities at the NL Site until at least September 6, 1994. Between now and September 6, 1994, it will, however, be necessary for U.S. EPA to complete the restoration of those properties upon which excavation activities had already commenced, a process which the City concurs is appropriate and necessary even within the context of its present motions. In addition, between September 6, 1994, and at least September 19, 1994, U.S. EPA will conduct no remediation activities at any residential properties at the NL Site with the exception of those properties which have lead contamination in excess of 1500 parts per million ("ppm") of lead. This is the same level of lead identified in properties which were subject to remediation activities conducted by U.S. EPA of which this Court was notified on November 5, 1993. As this Court knows, no parties, including the City, sought to restrain U.S. EPA's activities at that time.

EPA Region 5 Records Ctr.



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In light of the foregoing, the United States believes that there is no need for a hearing, now scheduled for tomorrow, on the City's TRO Motion. Rather, the United States respectfully requests that this matter be set for a hearing on the City's request for a preliminary injunction on September 1, 1994, or at such other time as this Court deems appropriate. Since the filing of the City's present motions, the United States has been in continual contact with the City. If the court adjourns any hearing on the pending motions as requested herein, the parties will have additional time to attempt to come to a resolution as to the matters addressed by the preliminary injunction motion. In the event those discussions are not successful, the parties will have the necessary time to prepare for a hearing on the preliminary injunction motion.

The United States intends to file an opposition to the TRO motion prior to tomorrow's scheduled hearing. In that opposition, the United States will again request that this Court deny the pending TRO Motion for, among other reasons, mootness, and set a briefing schedule and a date for the preliminary injunction hearing.

Counsel for the United States will be available throughout the day today for a telephonic status conference on this matter.

Sincerely,

Acting Assistant Attorney General
Environment & Natural Resources Division



by: Leonard M. Gelman
Environmental Enforcement Section
Mark A. Nitczynski
Environmental Defense Section

cc: Joseph G. Nassif, Esq. (via fax)
Edward C. Fitzhenry, Jr., Esq. (via fax)
All Counsel of Record (via U.S. mail)